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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/293,009	04/16/1999	ERIC VALLONE	061607-1020	4296

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EXAMINER

DUONG, DUC T

ART UNIT	PAPER NUMBER
2663	

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/293,009

Applicant(s)

VALLONE ET AL.

Examiner

Duc T. Duong

Art Unit

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-3 and 5-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The new matter is reference in claims 1, 5, 8, and 11 to "where said bit burst analysis information comprises a plurality of bit counters, each of said bit burst counters counting a number of bit bursts that was placed into one of a plurality of burst categories".

Response to Amendment

3. The applicant is reminded any amendment filed in subsequent amending the specification to incorporate the new added matter will be objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which will not supported by the original disclosure is as follows: "where said bit burst analysis information comprises a plurality of bit counters, each of said bit burst counters counting a number of bit bursts that was placed into one of a plurality of burst categories".

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Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shurmer et al (U.S. Patent 5,974,237) in view of Schulman (U.S. Patent 5,600,632).

Regarding to claims 1, 8, 11, and 14, Shurmer discloses a system (Fig. 2) for displaying network performance parameters comprising means for collecting 23, from a plurality of communication devices configured to support user devices (Fig. 1 col. 4 lines 47-63), network parameters (Fig. 6 col. 11 lines 12-18), and display means 10 for displaying said network parameters (Fig. 11 col. 16 lines 21-29).

Shurmer fails to teach for collecting and displaying network parameters bit burst analysis, network latency, data delivery success, and frame size distribution, wherein the bit burst analysis, network latency, data delivery success, and frame size distribution are applies to data traffic over a virtual circuit between a first communication devices in said plurality of communications devices and a second communication device in said plurality of communications devices (claim 15); and the virtual circuit is a permanent circuit (claim 16).

However, Schulman teaches for a network analyzer collecting and displaying network parameters such as packet sized minimum and/or maximum (bit burst), packet latency (network latency), throughput (data delivery success), and packet sized distribution (frame size distribution), see Fig. 3 col. 4 lines 51-67 and col. 5 lines 1-10. Wherein, the bit burst analysis, network latency, data delivery success, and frame size distribution are applies to data traffic over a permanent virtual circuit between a first communication devices in said plurality of communications devices and a second communication device in said plurality of communications devices (col. 2 lines 3-13).

Thus, it would have been obvious to one of ordinary skilled in the art, at the time of the invention, to includes the collecting and displaying network parameters as taught by Schulman in Shurmer's system with the motivation to establish the efficiency and cost effectiveness of the system and the service levels to be provided to a user.

Regarding to claims 2, 5, and 6, Shurmer discloses the display means further comprises a graphical user interface with plurality views of the network performance parameter (Fig. 11 col. 16 lines 55-62).

Regarding to claims 3, 7, 9, and 12, Shurmer discloses the network performance parameter views are collected from said at least two communication devices by said network management system (Fig. 11 col. 16 lines 49-54).

Regarding to claims 10 and 13, Shurmer discloses of allowing an administrator of a network the ability to determine, from said plurality of network performance parameter views, the performance of said communication network (Fig. 14 col. 20 lines 48-64).

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Regarding to claims 18-20, Shurmer discloses the display means displaying the network parameters simultaneously (col. 16 lines 35-54).

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shurmer and Schulman.

Regarding to claim 17, Shurmer and Schulman disclose all the limitation with respect to claim 15, except for the virtual circuit is a switched virtual circuit. However, to implemented to the virtual circuit as a switched virtual circuit would have been obvious to one of ordinary skilled in the art to provided communication across a network on an as-needed basis with better performance and network load-balancing.


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 703-605-5146. The examiner can normally be reached on M-Th (8:30 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 703-308-5340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

DD
November 29, 2003



STEVEN H. D. NGUYEN
PRIMARY EXAMINER